

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF YAVAPAI

**FILED**  
**DATE: January 15, 2010**  
**5:00 O'Clock P.M.**  
**JEANNE HICKS, CLERK**  
**BY: Rachel Roehe**  
**Deputy**

**DIVISION: 6**

**HON. THOMAS B. LINDBERG**

**CASE NO. P1300CR20081339**

**JEANNE HICKS, CLERK**

**By: Lara Van Güse, Deputy Clerk**

**DATE: January 15, 2010**

**TITLE:**

**STATE OF ARIZONA**

(Plaintiff)

**vs.**

**STEVEN CARROLL DEMOCKER**

(D-1)

**COUNSEL:**

**Yavapai County Attorney**

**Joseph Butner, Deputy County Attorney**  
(For Plaintiff)

**John Sears**

107 North Cortez Street, Suite 104  
Prescott, AZ 86301

**Larry Hammond**

**Anne Chapman**

OSBORN MALEDON, P.A.  
2929 North Central Avenue, 21<sup>st</sup> Floor  
Phoenix, AZ 85012

(For Defendant)

**HEARING ON:**

Oral Argument Re: Pending Motions

**NATURE OF PROCEEDINGS**

**COURT REPORTER**

Lisa Chaney

**START TIME: 9:47 a.m.**

**APPEARANCES:** Joseph Butner, Deputy County Attorney  
Steven DeMocker, Defendant, *In Custody*  
John Sears, Counsel for Defendant  
Anne Chapman, Counsel for Defendant

The Court continues with the motion in Limine to preclude prior act evidence pursuant to Rule 404(b).

Counsel argues the motion.

The Court does not find the Defendant's Fifth Amendment rights will be unnecessarily implicated. The Court finds that the fact of research existed on the Defendant's computer and that there is sufficient evidence with regard to the identity of who conducted the search. The Court finds by clear and convincing evidence that the research took place and that the Defendant conducted the research based on the evidence before the Court. The Court finds that it fits within the type of information for which is admissible under 404(b) for the purposes of knowledge, motive and plan. Therefore, based on the recollection of the evidence, the evidence with regard to *how to kill and make it look like a suicide* is admissible. With regard to the case in chief, the obtaining of an employer identification number or application for receipt of carbon monoxide canister and the research connected to carbon monoxide, the Court finds for the State's case in chief that the evidence should be excluded by danger of unfair prejudice compared to the probative value. The Court finds the other evidence of research is admissible and relevant and is free of the danger to be unfairly prejudicial as discussed in Rule 403. The Court finds that the issue does not present itself and there is not an unfair prejudice compared to the probative value.

The Court finds that there was a negotiated settlement that addresses the issue related to the book of business. The Court will disallow the evidence concerning false and misleading statements. The Court finds clear and convincing evidence of the financial report that the Defendant made and Ms. Kennedy made in their presentations to the divorce court. The Court finds that they are free of 403 prejudice and are probative to that point and relevant. The Court restricts the State's ability to indicate the Defendant is hiding assets, when in fact, the book of business is a negotiated item. The Court finds that the book of business was not hidden from Ms. Kennedy or her counsel and was subject of a negotiated settlement.

The Court finds clear and convincing evidence that the Defendant ordered books and that the books were in fact delivered to his offices and that they pertained to hiding identity. The Court finds earlier evidence presented of the Defendant obtaining a passport, evidence of the Defendant having a motorcycle equipped with camping gear and GPS map of the Republic of Mexico. The Court finds clear and convincing evidence that establishes those acts occurred. The Court finds that the evidence is relevant and not unfairly prejudicial compared to the probative value.

Counsel Sears addresses the motion for adoption of a jury questionnaire and jury selection plan. Counsel Sears advises the State has not yet responded to the motion to compel, however, the parties are working towards a resolution. Counsel requests the Court address the motion to compel at the next scheduled hearing.

The Court and Counsel address scheduling.

Counsel Sears advises he has made a request that the State forward letters to Ruth Kennedy and John Kennedy. Counsel understands that both have declined to be interviewed by the Defense, however, there is some confusion of whether or not they would agree to be deposed.

Counsel Chapman requests the State indicate whether they intend to and when they do in fact send the letters.

Counsel for the State understands Ruth Kennedy and John Kennedy are not willing to participate in a defense interview. Counsel has not had the opportunity to review the letters and he has not reviewed, from a legal point of view, if there is an issue with forwarding the letters to the intended parties.

The Court directs Counsel for the State to provide an answer and determination regarding the letters to the Defense within the next two weeks.

The Court addresses the motion in Limine to preclude the use of gruesome photographs.

~\*~\*~\*~\*~ Recess – 10:49 a.m. ~\*~\*~\*~\*~

At 11:07 a.m., Court reconvenes with the presence of Counsel and the Defendant.

Counsel Sears requests his client be excused for the remainder of the hearing.

With no objection, the Court will permit the Defendant to be excused.

The Court rules on each photograph as individually reviewed and argued by Counsel.

**END TIME: 12:19 p.m.**

cc: VS (e)  
Dean Trebesch (Contract Administrator) (PD) (e)  
Christopher DuPont, Trautman DuPont PLC, 245 W Roosevelt, Ste. A Phoenix, AZ 85003,  
Counsel for Victims Charlotte and Katherine DeMocker